

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Case No. 18-20249

Alexis Rodgers,

Sean F. Cox

United States District Court Judge

Defendant.

/

ORDER DENYING MOTION FOR COMPASSIONATE RELEASE
WITHOUT PREJUDICE

Acting *pro se*, Defendant Alexis Rodgers (“Defendant”) filed a motion for compassionate release under 18 U.S.C. § 3582(c)(1). (ECF No. 127). In response, the Government argues that Defendant has failed to exhaust his administrative remedies or wait the 30 days necessary to comply with 18 U.S.C. § 3582(c)(1)(A). Defendant did not file a reply in support of his motion and the time permitted for doing so has passed.

18 U.S.C. § 3582(c)(1)(A) allows a criminal defendant to move to modify his term of imprisonment “after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier[.]” The United States Court of Appeals for the Sixth Circuit examined the nature of these requirements for a defendant’s motion for compassionate release. In *United States v. Alam*, 960 F.3d 831 (6th Cir. June 2, 2020), the Sixth Circuit held that § 18 U.S.C. § 3582(c)(1)(A)’s exhaustion requirement is a mandatory claim-processing rule. *Id.* at 833. If a defendant fails to

comply with this rule, and the Government timely objects to his motion on that basis, the Court must enforce the exhaustion requirement and deny the motion without prejudice. *Id.* at 834, 836.

The Court may not craft an exception to this statutory exhaustion requirement. *Id.* at 834.

Here, Defendant does not claim to have submitted a compassionate release request to his warden.

Because Defendant's motion does not comply with § 18 U.S.C. § 3582(c)(1)(A), the Court **DENIES** his motion for compassionate release **WITHOUT PREJUDICE**. *Alam*, 960 F.3d at 836. Defendant may file a new motion for compassionate release (1) after he properly submits a compassionate release request to his warden and fully exhausts his administrative rights to appeal an adverse decision, or (2) 30 days after his warden receives his compassionate release request.

IT IS SO ORDERED.

s/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: October 28, 2020